



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 20, 1998

Mr. Michael J. Adams  
County Attorney  
San Augustine County  
P.O. Box 702  
San Augustine, Texas 75972

OR98-1008

Dear Mr. Adams:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 114092.

The San Augustine County Attorney's Office (the "county") received a request for "[t]he lab results from alcohol-content (blood and breath) tests performed during the now-closed investigation into a traffic accident." In response to the request, you submitted to this office for review the information which you assert is responsive.<sup>1</sup> You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception and arguments you have raised and reviewed the submitted information.

Section 552.108 of the Government Code, the "law enforcement" exception, provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

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<sup>1</sup>You have also submitted to this office information that apparently was sent for informational purposes only. In this ruling, we do not address the public disclosure of that information.

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

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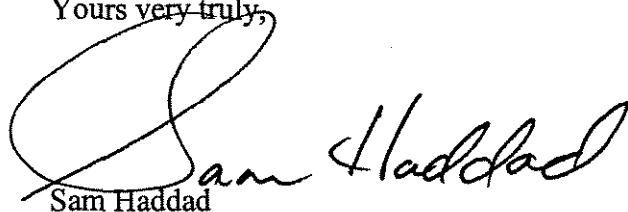
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You inform this office that "[t]he incident from which the document arose has been closed and no prosecution was undertaken." Based on your arguments and submitted information, we find that you have shown the applicability of section 552.108(a)(2) to the requested information, since the investigation did not result in conviction or deferred adjudication. Although section 552.108(a)(2) authorizes you to withhold the requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", is written over a horizontal line.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 114092

Enclosures: Submitted documents

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